



Supreme Court of the United States.

No. 404.—OCTOBER TERM, 1905.

Anna Valentina, Appellant, <small>vs.</small> James W. Mercer, Sheriff of Bergen County, New Jersey.	}	Appeal from the Circuit Court of the United States for the Dis- trict of New Jersey.
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[March 12, 1906.]

The appellant has appealed from an order of the United States Circuit Court for the District of New Jersey, refusing her application for a writ of *habeas corpus*.

In her application for the writ, appellant stated that she had been indicted in the Bergen County Court of Oyer and Terminer, in the State of New Jersey, in April, 1904, for the murder of one Rosa Salza, and that she had been convicted on the trial of such indictment by a jury, and sentenced to be hanged on the 19th day of May, 1904. She averred that she had been convicted without authority of law, and that her conviction was null and void, because the question of her guilt or innocence of murder was not entertained by the court or submitted to the jury, as the law of New Jersey expressly requires in all cases where parties are indicted for murder, but, on the contrary, she averred that evidence was taken in said court in said proceedings on her trial merely to determine the degree of her guilt; that her counsel, assigned by the court to represent her in said proceedings, had so stated in a petition in her behalf made to the Court of Pardons of the State of New Jersey. She further said that it was stated by her counsel, in that same petition, that she had pleaded guilty when she was arraigned, but that, under the direction of the court, a plea of not guilty was entered so that evidence might be taken for the purpose of determining the degree of guilt. This averment she denied. The petitioner claimed that the proceedings were wholly unwarranted by the law of New Jersey; and that the court and her counsel proceeded under the impression that section 68 of the act for the punishment of crimes, approved March 27, 1874, which provided that "if a person indicted for murder should be convicted by confession in open court, the court should proceed by examining witnesses to determine the degree of the crime," was then in existence, whereas she said the act had been repealed in 1893, and the present law passed, which provides, "if upon arraignment such plea of guilty shall be offered, it shall be disregarded and a plea of not guilty entered, and a jury empanelled shall try the case in manner aforesaid." The petitioner urged in her petition that by the proceedings adopted upon her trial she was deprived of all benefit of the

presumption of innocence and of reasonable doubt to which she was entitled by law, and that the questions of self-defense and manslaughter, fairly raised by her testimony, were excluded from the consideration of the jury, and the question submitted to them was limited by the court simply as to whether she was guilty of murder in the first degree or not, and the benefit of reasonable doubt was confined to that point.

A writ of error was sued out by the petitioner and her case was brought before the Court of Errors and Appeals, the highest court of the State of New Jersey, for the purpose of review, and, after a hearing, that court refused a new trial. The case is reported in 71 N. J. Law, 552.

It appears from the record herein that upon the trial proof was given that the petitioner stabbed the deceased with a knife a great many times in the neck and breast, killing her instantly. Counsel who had been assigned to defend the petitioner called her as a witness, and she admitted that she stabbed the deceased and killed her. She said that the deceased had a child in her arms at the time and that the petitioner said to her that she did not want to raise any trouble, and told her to put the child away, but that the deceased had the knife in her hand, right behind her dress, and that when petitioner saw that she had the knife and that the deceased was going to stab her, petitioner took the knife and grabbed the deceased by the hair, and before deceased stabbed her she took the knife away from her and stabbed the deceased.

Upon opening for the defense her counsel said as follows:

"This defendant, when arraigned in open court, made confession of the commission of this crime, and you, gentlemen of the jury, from the evidence that has been produced on the part of the State, and that which shall be offered on the part of the defense, will simply have to determine what the degree of guilt shall be; your verdict will be either that she is guilty of the taking of the life of this woman, Mrs. Salza, with malice aforethought, premeditated, which would mean a verdict of murder in the first degree, or your verdict will be murder in the second degree; so that I find myself in a very peculiar position. It is one of those cases around which—the circumstances being such—that we stand, as it were, with only the defendant to testify. After you have heard her testimony, and possibly one or two witnesses in connection therewith, the case will then be given to you for you to determine whether this woman shall forfeit her life for the act which she committed on March 10th, last, or whether she shall suffer the penalty which the law will inflict by reason of a verdict of murder in the second degree."

After that the evidence was given on the part of the defense, and the defendant was called as a witness, and admitted the killing.

Mr. Justice PECKHAM, after making the foregoing statement, delivered the opinion of the Court.

In this case, as in that of *Felts v. Murphy*, decided this day, the question arises on an appeal from an order of the Circuit Court of the United

States for the District of New Jersey, refusing appellant's petition for a writ of *habeas corpus*. Our power to interfere in cases of this nature is limited entirely to the question of jurisdiction. If the State court had jurisdiction to try the case, and had jurisdiction over the person of the accused, and never lost such jurisdiction, the Federal Circuit Court was right in denying the application of petitioner for a writ, and its order must be affirmed. A writ of this nature cannot perform the function of a writ of error. We again cite the authorities referred to in the *Fells case: Ex parte Bigelow*, (113 U. S. 328;) *In re Lennon*, (166 U. S. 548, 552;) *In re Eckart*, (166 U. S. 481.)

The contention of the counsel for the petitioner is that the proceedings upon the trial, which resulted in appellant's sentence to death, did not amount to a trial at common law, or a proceeding authorized by any statute. That it was a mere inquiry to determine the degree of murder of which defendant was guilty, and hence she has never had a trial by due process of law, and the action of the State court was without jurisdiction. A perusal of the charge of the court to the jury shows that the whole case was presented to the jury upon the evidence that was produced in court. Upon all the evidence given the court stated to the jury that there was no evidence to show that the defendant killed the deceased in her necessary self-defense, and the court instructed the jury that it would not be justified in acquitting the defendant on the ground of self-defense. The court further said that there was no question of manslaughter in the case, and that, not only as a necessary conclusion from the evidence, but upon the admitted facts in the case, the defendant was guilty of the crime of murder, and the only question left for the consideration of the jury was whether it was murder in the first degree or second degree. The court gave an extended explanation as to what constituted murder in the first degree and what constituted murder in the second degree, and stated that the defendant was guilty of murder in the second degree, unless the evidence satisfied the jury beyond a reasonable doubt that the defendant intended to take the life of deceased, and that the intent was carried into execution deliberately, wilfully and with premeditation. Finally, the court submitted to the jury the case and instructed it to consider all the evidence according to the recollection of the jury, and giving to the evidence such weight as it possessed on the mind of the jury. The court stated it was the duty of the jury to determine whether the defendant intended to kill the deceased, and carried out that purpose wilfully, deliberately and with premeditation. If she did, she was guilty of murder in the first degree, and it was the duty of the jury to say so. If not, then on the admitted facts she was guilty of murder in the second degree, and it was the duty of the jury to say that by its verdict. The jury found the petitioner guilty of murder in the first degree.

The charge of the court was the subject of review by the court of last resort of the State of New Jersey, and it was held by that court to be without error. Upon the record in this case there can, in our judgment, be no possible doubt that the petitioner has had a valid trial by a court having jurisdiction of the subject matter and of the person of the accused, and that there was no loss of jurisdiction over either at any time during the trial. What effect was to be given by the court to the admission of counsel (above set forth) was a question of law for the court to decide, and the charge of the court did not oust it of jurisdiction to proceed in the trial of the case. This is to us so plain a proposition that it is unnecessary to enlarge upon it.

Having no power to review on this writ any other question than that of the jurisdiction of the court in the trial and sentence pronounced upon the verdict of guilty, and concluding that there was the necessary jurisdiction, the order of the Circuit Court refusing the writ of *habeas corpus* is

Affirmed.

True copy.

Test :

Clerk Supreme Court, U. S.